

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEQUANDRE LONZI HUNT,

Plaintiff,

Case No. 21-11987

v.

JUSTIN HUNT,

District Judge George C. Steeh
Magistrate Judge David R. Grand

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION
(ECF NO. 50) AND GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT (ECF NO. 39)

On July 6, 2023, Magistrate Judge David R. Grand issued a report and recommendation proposing that the court grant Defendant's motion for summary judgment. Plaintiff filed objections on July 25, 2023, to which Defendant responded.

As a threshold matter, Defendant contends that Plaintiff's objections are untimely and should not be considered. Pursuant to Federal Rule of Civil Procedure 72(b)(2), a party has 14 days to file objections to a report and recommendation. Three days are added because Plaintiff was served with the report and recommendation by regular mail. Fed. R. Civ. P. 6(d). Accordingly, Plaintiff's objections were due July 24, 2023. Although the objections were not

received by the court until July 25, 2023, they were signed and dated on July 19, 2023, and the court presumes they were mailed on that date. Under the “mailbox rule,” the objections are deemed filed on the date they are placed in the prison mailbox. *Towns v. United States*, 190 F.3d 468, 469 (6th Cir.1999); *Thompson v. Chandler*, 36 Fed. Appx. 783, 784-85 (6th Cir. 2002). Therefore, the court considers the objections to have been timely filed on July 19, 2023.

With respect to reports and recommendations from magistrate judges, this court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” *Id.*

Plaintiff alleges that Defendant violated his Fourth Amendment right to be free of excessive force after he was bitten by a police dog without warning. The magistrate judge determined that Defendant was entitled to qualified immunity, because the officer was tracking a potentially armed suspect in the dark to a vacant house, and the deployment of a police dog without warning was reasonable under the circumstances. ECF No. 50 at PageID 303-306. See *Jarvela v. Washtenaw Cnty.*, 40 F. 4th 761, 765 (6th Cir. 2022) (“We therefore hold that the Constitution does not require a canine handler always to shout out a

warning to a fleeing suspect.”). Plaintiff does not specifically address this finding, which is dispositive.

Rather, Plaintiff focuses on his claim that the police lacked a clear description of the fleeing suspect. As the magistrate judge pointed out, however, the police dog was tracking the *scent* of the fleeing suspect, so the alleged lack of a physical description was not relevant to whether the force employed was reasonable under the circumstances. ECF No. 50 at PageID 306. In general, Plaintiff registers his disagreement with the report and recommendation without specifically addressing the cases cited by the magistrate judge or identifying the error in his legal analysis.

Having reviewed the record and the applicable legal authority, the court agrees with the magistrate judge’s analysis and conclusions. Therefore, IT IS HEREBY ORDERED that Magistrate Judge Grand’s July 6, 2023 report and recommendation is ADOPTED as the order of the court.

IT IS FURTHER ORDERED that Defendant’s motion for summary judgment (ECF No. 39) is GRANTED.

IT IS FURTHER ORDERED that Defendant’s motion to dismiss (ECF No. 40) is DENIED AS MOOT.

Dated: August 24, 2023

s/George Caram Steeh
HON. GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 24, 2023, by electronic and/or ordinary mail and also on Dequandre Lonzi Hunt #723993, Ionia Maximum Correctional Facility, 1576 W. Bluewater Highway, Ionia, MI 48846.

s/Mike Lang
Deputy Clerk